

**Internal Revenue Service
Appeals**

Department of the Treasury

Address any reply to:

Employer Identification Number:

Person to Contact:

Contact Telephone Number:

Fax Number:

UIL: 501.03-30

Date: December 12, 2013

Number: 201410044

Release Date: 3/7/2014

Certified Mail

Dear

This is a final adverse determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code (the "Code"). It is determined that you do not qualify as exempt from Federal income tax under section 501(c)(3) of the Code effective January 1, 20XX.

Our revocation was made for the following reasons:

***** is not operated exclusively for exempt purposes. Under Treasury Reg. § 1.501(c)(3)-1(c)(1), an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

In addition, you are operated for a substantial private purpose rather than a public purpose. Under Treasury Reg. § 1.501(c)(3)-1(d)(1)(ii), an organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (i) of this subparagraph unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests. See Treasury Reg. § 1.501(c)(3)-1(d)(1)(iii), Example 3. *****'s agreement with ***** shows that it is operated for a substantial private rather than public purpose.

Contributions to your organization are not deductible under Code section 170.

You are required to file income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the tax years ending December 31, 20XX, December 31, 20XX and December 31, 20XX, and for all tax years thereafter in accordance with the Code.

Processing of income tax returns and assessments of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Code.

We will make this letter and the proposed adverse determination letter available for public inspection under Code section 6110 after deleting certain identifying information. We have provided to you, in a separate mailing, Notice 437, *Notice of Intention to Disclose*. Please review the Notice 437 and the documents attached that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437.

If you decide to contest this determination, you may file an action for declaratory judgment under the provisions of section 7428 of the Code in one of the following three venues: 1) United States Tax Court, 2) the United States Court of Federal Claims, or 3) the United States District Court for the District of Columbia. A petition or complaint in one of these three courts must be filed within 90 days from the date this determination letter was mailed to you. Please contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment. To secure a petition form from the United States Tax Court, write to the United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217. See also Publication 892.

You also have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States Court. The Taxpayer Advocate can however, see that a tax matters that may not have been resolved through normal channels get prompt and proper handling. If you want Taxpayer Advocate assistance, please contact the Taxpayer Advocate for the IRS office that issued this letter. You may call toll-free, 1-877-777-4778, for the Taxpayer Advocate or visit www.irs.gov/advocate for more information.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

/S/
Appeals Team Manager

Enc. Publication 892

cc: *****

Internal Revenue Service

Department of the Treasury

Taxpayer Identification Number:
EIN

Form:

Tax Year(s) Ended:
December x, 200X and December x, 200X

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Date: April 24, 2006

Legend

ORG=Name of
organization

EIN= EIN of organization

NN= Name of individual

ORG

Certified Mail - Return Receipt Requested

Dear ,

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

Letter 3618 (Rev. 11-2003)

Catalog Number: 34809F

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination

Explanation of ItemsExhibit**Name of Taxpayer****ORG****Year/Period Ended****December x, 200X****and December x,****200X****Legend****ORG1= Former name of organization****ST= State****ORG= Name of organization****x= Number****NLBB= Newsletter, brochure, book****X= Year****NN = Name of Individual****Issue:**

1. Whether ORG is operated exclusively for exempt purposes described within Internal Revenue Code section 501(c)(3):

- a. Whether ORG is engaged primarily in activities that accomplish an exempt purpose?
- b. Whether more than an insubstantial part of the activities of ORG are in furtherance of a non-exempt purpose?
- c. Whether ORG was operated for the purposes of serving private rather than public interest?

Facts:

ORG (hereafter referred to as "ORG") was incorporated on October x, 199X as a Domestic Non-profit Corporation in the ST. The articles were amended August x, 200X, to change the name. The former name was ORG1. The stated purpose of the organization was:

To help the public with financial problems, as a provision of debt management services as authorized by the debt management service act.

On October x, 200X, the organization filed Form 1023, Application for Recognition of Exemption, with the Internal Revenue Service. On March x, 200X, ORG received from the Internal Revenue Service a determination letter advising the organization of recognition of exempt status under Section 501(c)(3) of the Internal Revenue Code ("Code").

Per Form 1023 the organization stated:

The organization's purpose is to educate the public on a variety of financial issues, with special attention to educating families and individuals on personal budgeting and the wise use of credit. We will use trained professional counselor's to help families and individuals with current financial difficulties,

Name of Taxpayer
ORGYear/Period Ended
December x, 200X
and December x,
200X

Explanation of Items

through sound budget or spending planning, and educate them on how to avoid future financial difficulties. The counselors will help the clients complete a comprehensive budget analysis, examining items such as gross household income, employment tenure, mortgage/rent payments, automobile payments and unsecured debt levels. Using this information, the counselor will try to establish a realistic and disciplined budget. If a family or an individual is having financial problems that are beyond the scope of sound budgeting techniques, a counselor will set up a debt management plan for the orderly liquidation of the debt; as a viable alternative to bankruptcy. We will begin educating the general public through advertising on a national level sometimes in the year 200X.

During our second year of operation, our goal is to develop an educational video based on our counseling program.

In addition to the counseling services described above, the organization will increase its educational activities in the following manner as funding and financial support increase.

1. The organization will provide group advisory instruction to all age group when there is a need for credit, budget, and financial counseling services with particular, but no exclusive reference, to those in special and pressing need thereof, through money management workshops will be conducted by trained professional counselors with extensive training in financial and credit issues. It is projected that this service will be offered within the second x months of operation.
2. The organization will form a committee to determine research, education, and public information activities conducive to the general welfare with respect to budgeting, financial matters and consumer credit. Proposed activities will include publishing informational brochures covering numerous financial topics, including but not excluding

Explanation of Items

Exhibit

Name of Taxpayer**ORG****Year/Period Ended****December x, 200X
and December x,
200X**

household budgeting, how to re-establish credit, and how to use credit. These brochures will be provided to the public at no cost. The organization will also publish a monthly newsletter designed to educate individuals and families, on an ongoing basis, in credit and financial issues. The brochures and newsletters will be published in-house. Both paid and volunteered staff will actively contribute to the research, writing and editing of the publications. It is projected that the newsletter will go into publication during this coming year.

3. The organization will cooperate with public and private agencies, organizations and associations engaged in the same and similar educational counseling programs.

NN is the former President of ORG currently owns and operates RR. RR is responsible for providing all credit card processing services for ORG.

For years ending 200X and 200X, the Board of Directors of NN, NN and NN are all children of the former President and creator, NN.

The application list x initial officers: (1) NN, President, (2) NN-Vice President, (3) NN. There were no directors mentioned on the application. The organization also stated on their application that they are not the outgrowth of (or successor to) another organization, or does not have a special relationship with another organization by reason of interlocking directorates or other factors.

The President of ORG NN is also an officer and employee of RR. RR provides consultation and creative placement of all radio and television broadcasting and print advertising. RR also creates and produces the monthly newsletter, "NLBB". In addition, RR is also responsible for

the creation and production of all collateral materials and brochures.

Activities during January x, 200X-December x, 200X:

ORG Form 990, Return of Organization Exempt from Income Tax, is under examination for the tax years ended December x, 200X and December x, 200X.

During the examination years, ORG activities consisted of providing credit counseling and debt management services to individuals experiencing credit problems.

The credit counseling services ORG provides are by telephone. It employs individuals to answer incoming calls from the general public in response to advertising and marketing, targeted at individuals experiencing credit problems.

The debt management services ORG provides consist of enrolling individuals into a debt management plan to payoff their unsecured debts. The DMP enrollment process consist of preparing a budget plan for an individual, negotiating with the individual's unsecured creditors to obtain lower payments, reduce interest rates, re-age accounts, and provide waivers for late and over-the-limit fees. Once an agreement is reached with an individual's creditor, he or she makes one monthly payment to ORG. Then ORG disburses the payment to the individual's creditors. Below is a table setting forth the maximum amounts of fees charged to individuals who enroll in debt management plans.

Monthly DMP Payment	Start Up Fee	Monthly Fee
\$x-\$x	\$x	\$x
\$x-\$x	\$x	\$x
\$x-\$x	\$x	\$x
\$x-x	\$x	\$x
\$x+	\$x	\$x

Credit counselors (hereafter referred to as service employees) and customer service representatives (hereafter

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer		Year/Period Ended
ORG		December x, 200X
		and December x, 200X

referred to as CSRs) make up almost half of ORG's employees. Service employees are hired to perform personal financial management counseling and DMP enrollments. DMP enrollments are conducted at ORG's in-bound call center by service employees who are not paid on a commission basis. However, some calls were made by two independent contractors who were compensated on a total of \$x commission basis. ORG also purchase leads to help increase DMP enrollments. ORG claims that most in-bound calls are generated from the general public in response to employee assistance programs and by word-of-mouth. They also claim to only purchase up to x leads per month. CSRs are only responsible for clients that are enrolled into DMPs. CSRs serve as a liaison between clients and creditors. Clients are assigned a specific CSR, who will research and answer all questions regarding their accounts. During the examination year, ORG employed the following number of service employees, CSR's and other employees at the end of the year:

(Credit Counselors)	x
CSR's	x
Administrative/Clerical Employees	x
Total Employees	x

Service employees are hired by ORG without any prior credit counseling experience. During the examination years, training consisted only of on-the-job training. There was no training manuals or workshops provided to the employees. In addition, none of the service employees possess any certificates or licenses related to counseling.

As previously stated, in-bound calls to ORG's call center are generated by advertising, marketing, purchasing of leads, and word-of-mouth. ORG markets and advertises its services in a variety of media. The media used include television, radio, yellow pages, and the internet. Radio scripts, pamphlets and brochures that described the services and benefits of ORG did not mention educational services. During the examination year ending December x, 200X, ORG expended the following amounts on advertising, marketing and leads:

Advertising \$x

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer	ORG	Year/Period Ended December x, 200X and December x, 200X

Marketing	\$x
Leads	\$x
Totals	\$x

As a result of the volume of in-bound calls to its call center generated by its advertising, marketing and the purchasing of leads, ORG enrolled over x individuals into DMP's during the year ending December x, 200X. DMP enrollment activities during the examination year are provided below:

DMP clients at the beginning of year	x
New clients enrolled during the year	x
DMP clients at the end of the year	x

During the examination year ending December x, 200X, ORG's revenue was derived from five sources. See the table below for a breakdown of those sources:

Fee Income	\$x
Fair Share Income	\$x
Credit Report Income	X
Commission Income	X
Interest Income	\$x
Totals	\$x

Excluding interest income, revenue from ORG's DMP services was its primary source of income. The DMP services that ORG provided generated revenue from four sources. When an individual enroll in a DMP they are required to pay for a copy of their credit report. Secondly, they are requested to make a one-time setup fee to ORG While they are on the program they are then requested to make monthly fee payments to ORG.

One aspect of a DMP involves individuals making one monthly payment to ORG and in turn ORG disburses parts of the payment to each of the individual's creditors in the amount it negotiated for the individual. For its efforts, creditors return a percentage of the payments they receive through ORG back to ORG .The amounts received back from the creditors are called "fair share payments" in the credit counseling

Explanation of ItemsExhibit

Name of Taxpayer

Year/Period Ended

ORG

December x, 200X

and December x,
200X

industry. The fair share payments from creditors is the fourth source of revenue ORG receives from its DMP services.

During the examination year ending December x, 200X, the breakdown of ORG's Fee Income is presented below:

Client setup fees	\$x
-------------------	-----

Client monthly fees	\$x
Totals	<u>\$x</u>

ORG claims that its setup fees are waived if a client is unable to pay. However, ORG did not or was not able to indicate the total number of clients who did not pay the initial set-up fee.

Educational Activities

During the examination years, ORG conducted several educational activities. The educational activities that were conducted during the year ending December x, 200X were as follows:

-Maintained a web site on credit and money management.

-NLBB (Newsletter)

Beginning in September of 200X, ORG began providing a monthly newsletter called, NLBB to their existing client database and to recent inquires. The newsletter focused on a timely subject that would be of great interest and education for the reader.

- NLBB (Brochure)

In January of 200X, ORG created and distributed a brochure called "NLBB". This was sent to their entire client database and to recent inquires. The brochure focused on clients that were not appropriate for Debt Management Plans.

-Fannie Mae's NLBB

200X, ORG became

a recognized

housing

consultant through Fannie Mae credit. In addition to assisting clients purchase their first home, they provided this free booklet to help individuals understand various credit terms and facts.

-NLBB

Beginning in the year 200X, ORG created a library of books in catalog form that was available to existing clients and recent inquiries at reduced prices. The library consist of over x publications that cover various topics (i.e.

spending, saving, investing and budgeting).

Publications can be ordered by mail or phone.-

Conducted Seminars and Provided Educational Literature

Conducted seminars and provided educational literature to various employers of schools, charities and numerous businesses through their Employee Assistance Programs. See attached Summary of Seminars and Educational Efforts

On April x, 200X, a questionnaire developed by the TE/GE Credit Counseling Coordinator was given to x service employees. The results from the questionnaire concluded that:

- *ORG does not provide any workshops or seminars to the general public. Seminars conducted through Employee Assistance Programs are only held to sign individuals to DMP's.

- *Some employees stated that they never viewed the website by ORG.

- *Some service employees stated that they have never asked clients to review the website and they all stated that they are not required to do so.

Law

Section 501(a) of the Code provides that an organization described in section 501(c) (3) is exempt from income tax. Section 501(c) (3) of the Internal Revenue Code exempts from federal income tax organizations organized and operated exclusively for charitable, educational, religious and

Name of Taxpayer
ORG

scientific purposes. No part of the net earnings can inure to the benefit of any private shareholder or individual. Section 1.501(c) (3)-1(d) (2) of the income regulations provides, the term charitable includes relief of the poor and distressed.

The term educational includes (a) instruction or training of the individual for the purpose of improving or developing his capabilities and (b) instruction of the public on subject useful to the individual and beneficial to the community. Regulations 1.501(c) (3)-1(d) (3). In other words, the two components of education are public education and individual training.

Section 1.501(c) (3)-1(a) (1) of the Regulations provides that, in order to be exempt as an organization described in section 501(c) (3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c) (3)-1(c) (1) of the Regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities that accomplish one or more of such exempt purposes specified in section 501(c) (3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. The existence of a substantial nonexempt purpose, regardless of the number or importance of exempt purposes, will cause failure of the operational test. *Better Business Bureau of Washington, D.C. v. U.S.* 279 (1945).

Educational purposes include instruction or training of the individual for the purpose of improving or developing his capabilities and instruction of the public on useful and beneficial subjects. Regulations 1.501(c) (3)-1(d) (3). In *Better Business Bureau of Washington D. C., Inc. v. United States*, 326 U.S. 279 (1945), the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number of importance of truly exempt purposes. The Court found that the trade association had an "underlying commercial motive"

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended
ORG		December x, 200X and December x, 200X
Explanation of Items		

that distinguished its educational program from that carried out by a university.

In *American Institute for Economic Research v. United States*, 302 F. 2d 934 (Ct. Cl. 1962), the Court considered that status of an organization that provided analysis of securities and industries and of the economic climate in general. The organization sold subscriptions to various periodicals and services providing advice for purchases of individual securities. Although the court noted that education is a broad concept, and assumed for the sake of argument that the organization had an educational purpose, it held that the organization had a significant non-exempt purpose that was not incidental to the educational purpose and was not entitled to be regarded as exempt.

The service has issued two rulings holding credit counseling organizations to be tax exempt. Revenue Ruling 65-299, 1965-2 C.B. 165, granted exemption to a 501(c)(4) organizations whose purpose was to assist families and individuals with financial problems and to help reduce the incidence of personal bankruptcy. Its primary activity appears to have been meeting with people in financial difficulties to "analyze the specific problems involved and counsel on the payment of their debts." The organization also advised applicants on proration and payment of debts, negotiated with creditors and set up debt repayment plans. It did not restrict its services to the needy. It made no charge for the counseling services, indicating they were separate from the debt repayment arrangements. It made "a nominal charge" for monthly prorating services to cover postage and supplies. For financial support, it relied upon voluntary contributions from local businesses, lending agencies, and labor unions.

Revenue Ruling 69-441, 1969-02 C.B. 115, granted 501(c)(3) status to an organization with two functions: it educated the public on personal money management, using films, speakers, and publications, and provided individual counseling to "low-income individuals and families." As part of its counseling, it established budget plans, i.e., debt management plans, for some of its clients. The debt management services were provided without charge. The organization was supported by contributions primarily from creditors. By virtue of aiding low income people, without

Explanation of Items

Name of Taxpayer
ORG

charge, as well as providing education to the public, the organization qualified for section 501(c) (3) status.

In the case of Consumer Credit Counseling Service of Alabama, Inc. v. U.S., 44 A.F.T.R. 2d 78-5052 (D.D.C. 1978), the District Court for the District of Columbia held that a credit counseling organization qualified as charitable and educational under section 501(c) (3). It fulfilled charitable purposes by educating the public on subjects useful to the individual and beneficial to the community. Regulations 1.501(c) (3)-1(d) (3) (i) (b). For this, it charged no fee. The court found that the counseling programs were also educational and charitable; the debt management and creditor intercession activities were "an integral part" of the agencies' counseling function and thus were charitable and educational. Even if this were not the case, the court viewed the debt management and creditor intercession activities as incidental to the agencies' principal functions, as only approximately 12 percent of the counselors' time was applied to debt management programs and the charge for the service was "nominal." The court also considered the facts that the agency was publicly supported and that it had a board dominated by members of the general public as factors indicating a charitable operation. See also, Credit Counseling Centers of Oklahoma, Inc. v. United States, 79-2 U.S.T.C. 9468 (D.D.C. 1979), in which the facts and legal analysis were virtually identical to those in Consumer Credit Counseling Centers of Alabama, Inc. v. United States, discussed immediately above.

The organizations included in the above decision waived the monthly fees when the payments would work a financial hardship. The professional counselors employed by the organizations spent about 88 percent of their time in activities such as information dissemination and counseling assistance rather than those connected with the debt management programs. The primary sources of revenue for these organizations were provided by government and private foundation grants, contributions, and assistance from labor agencies and United Way.

Outside the context of credit counseling, individual counseling has, in a number of instances, been held to be a tax-exempt charitable activity. Rev. Rul. 78-99, 1978-1 C.B. 152 (free individual and group counseling of widows); Rev.

Explanation of Items

Name of Taxpayer
ORG

Year/Period Ended
December x, 200X
and December x,
200X

Rul. 76-205, 1976-1 C.B. 154 (free counseling and English instructions for immigrants); Rev. Rul. 73-569, 1973-2 C.B. 179 (free counseling to pregnant women); Rev. Rul. 70-590, 1970-2 C.B. 116 (clinic to help users of mind-altering drugs); Rev. Rul. 70-640, 1970-2 C.B. 117 (free marriage counseling); Rev. Rul. 68-71 1968-1 C.B. 249 (career planning education through free vocational counseling and publications sold at a nominal charge). Overwhelmingly, the counseling activities described in these rulings were provided free, and the organizations were supported by contributions from the public.

Taxpayer's Position:

At the time of issuance of the report, no position statement had been provided by the taxpayer.

Government's Position:

The purpose of ORG's activities differs substantially from those of the organizations in Rev. Rul. 65-299, Rev. Rul. 69-441, and Consumer Credit Counseling Service of Alabama, Inc. v. U.S. In this case, ORG engages in minimal activities which further an exempt purpose. Its "counseling" activity is nothing more than a sales activity: ORG markets and sells debt management plans to any consumer. There is no actual counseling provided to consumers who contact, or are contacted by ORG. In addition, employees received no training on how to provide educational counseling to clients on personal money management. There are no training manuals or special courses given to employees (counselors). Employees are only trained to sell debt management plans, whether the consumers' situation warranted it or not. In fact, the training employees (counselors) received did not enable an employee to determine whether a DMP would serve the best interests of a potential client. ORG also paid independent contractors to sell debt management plans on their own time, in their own homes. Unlike the credit counseling organizations described in the Revenue Ruling referred to above, and in Consumer Credit Counseling Service of Alabama, Inc. v. U.S., ORG provides no counseling or education to its clients.

ORG claimed to provide education through their pamphlets, brochures and through their website. However, during the years of examination it was learned that their pamphlet and

brochure are rarely updated and their website is updated semi-annually and contains very little educational information. In addition, some service employees have never visited the company website, and clients are never required to visit the website. The minimal amount of activity that was verified involved the president marketing the debt management plan services of ORG. There was no evidence that a substantial amount of the organization's activities were anything other than to market and sell the debt management plan product.

ORG has a substantial non-exempt purpose of selling a product, the DMP, and of providing business to RR. ORG is not furthering any charitable or educational purpose when it mass markets debt management plans. ORG advertises and purchases leads in order to increase its business.

The reason why ORG which is related to RR through common officers, is organized as an exempt organization is to avoid the regulatory scheme of the Credit Repair Organizations Act (CROA), 15 U.S.C. section 1679, et. seq. CROA was enacted to protect consumers by banning certain deceptive practices in the credit counseling industry. If ORG was a for-profit entity, the CROA would prohibit it from charging fees in advance of fully providing services. In addition, federal law would prohibit it from purchasing leads and making cold calls to potential customers. Because section 501(c)(3) organizations are exempt from the provisions of CROA, ORG is able to engage in deceptive business practices that Congress intended to prohibit when it passed the CROA law. As such, ORG is operated for a substantial non-exempt purpose of carrying on a business while avoiding federal regulations. In addition, ORG could not collect "fair share" payments from creditors if it did not have tax-exempt status. The entire debt management plan business depended on the organization having tax-exempt status.

Conclusion:

In summary, ORG is not operated exclusively for tax-exempt purposes, because it did not engage primarily in activities that accomplish an exempt purpose. More than an insubstantial part of ORG's activities are in furtherance of a non-exempt purpose.

Accordingly, it is determined that ORG is not an organization described in section 501(c)(3), and is not exempt from Federal income tax under section 501(a), effective January x, 200X.